

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA, for the
use of WILLIAM C. FRITZSCHE; and
WILLIAM C. FRITZSCHE, d.b.a.
ADVANTAGE BUILDING &
CONSULTING,

Plaintiffs,

vs.

TIERRA DYNAMIC, LLC, and LEXON
SURETY GROUP,

Defendants.

CASE NO. 8:13CV146

ORDER

This matter is before the Court on the Stipulation for Dismissal of Complaint as to Defendant Tierra Dynamic, LLC (Filing No. 8), with prejudice, filed by the Plaintiffs and Dina L. Anderson, Chapter 7 Trustee for the bankruptcy estate of Defendant Tierra Dynamic, LLC (“Tierra”). In the stipulation, Anderson and the Plaintiffs represent that on July 31, 2013, Tierra filed a voluntary Chapter 7 petition in the United States Bankruptcy Court for the District of Arizona,¹ that this bankruptcy case remains pending at this time, and that the Plaintiffs have not sought relief from the automatic stay that was instituted upon commencement of Tierra’s bankruptcy case. They also represent that the Plaintiffs initiated this action against the Defendants to recover on a performance bond that Defendant Lexon Surety Group (“Lexon”) issued on behalf of Tierra, that the Plaintiffs’ damages are recoverable from Lexon only, and that the Plaintiffs, therefore, agree to dismiss Tierra from this matter, with prejudice.

¹ See *In re Tierra Dynamic Co., LLC*, No. 2:12-bk-17115-SSC (Bankr. D. Ariz. July 31, 2012).

The stipulation complies with the requirements of Federal Rule of Civil Procedure 41(a)(1)(A)(i), and the Court concludes that it should be approved and that, under the circumstances, referring this action to the U.S. Bankruptcy Court for the District of Nebraska² is unnecessary. Accordingly,

IT IS ORDERED:

1. The Stipulation for Dismissal of Complaint as to Defendant Tierra Dynamic, LLC (Filing No. 8), with prejudice, filed by the Plaintiffs and Dina L. Anderson, Chapter 7 Trustee for the bankruptcy estate of Defendant Tierra Dynamic, LLC, is approved;
2. Defendant Tierra Dynamic, LLC, is dismissed from this action, with prejudice, and the Clerk of the Court is directed to remove its name from the case caption; and
3. The Court will not assess costs or attorney's fees.

Dated this 17th day of June, 2013.

BY THE COURT:

s/Laurie Smith Camp
Chief United States District Judge

² See NEGenR 1.5(a)(1):

Upon the filing of a suggestion in bankruptcy, or other notification that a party to a civil case is a debtor in a bankruptcy case, the entire case is referred to the bankruptcy court for further action. Under this rule, the matter is referred to the bankruptcy court even if the suggestion of bankruptcy states the bankruptcy proceeding was initiated in another district. . . .